



[10191/4075]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor : Erwin Lock et al.
Serial No. : 10/519,369
Filed : September 8, 2005
For : METHOD FOR CONTROLLING THE SPEED OF A
VEHICLE
Art Unit : 3663
Examiner : Tuan C. To
Confirmation No. : 4506

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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Date: April 19, 2007

Signature: 

Jong H. Lee (Reg. No. 36,197)

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**RESPONSE TO RESTRICTION REQUIREMENT AND
REQUEST FOR EXTENSION OF TIME**

SIR:

In response to the requirement for restriction contained in the Office Action dated January 19, 2007, Applicants elect, with traverse, Species I (encompassing claims 12-14) for further prosecution on the merits. Applicants request a two-month extension of time to respond to the Office Action (the extended time period expires on April 19, 2007). Please charge the \$450 extension fee to Kenyon & Kenyon LLP's Deposit Account No. 11-0600.

In the restriction requirement, the Examiner notes that there are three distinct species, i.e., species I (reciting the features of independent claim 12), species II (reciting the features of independent claim 15), and species III (reciting the features of independent claim 22). Furthermore, the Examiner states that "[t]he species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: **There is**

no special technical feature when considered as a whole defines a contribution over the prior art of record,” and the Examiner cites DE 196 54 769 A1 listed in the PCT Search Report. However, the Examiner’s assertion that “there is no special technical feature when considered as a whole defines a contribution over the prior art of record” is clearly incorrect, as discussed in greater detail below.

Initially, Applicants note that although DE 196 54 769 A1 was noted in the PCT Search Report as “a document of particular relevance,” DE 196 54 769 A1 was not regarded as relevant in the subsequent actual examination proceedings in both the international and the European stages. Furthermore, in contrast to present claim 12 (the broadest claim), DE 196 54 769 A1 clearly does not describe that the vehicle brake is activated only when a specified setpoint speed has been exceeded by an actual speed of the vehicle by more than a specified speed difference greater than zero, and DE 196 54 769 A1 clearly does not render obvious present claim 12. Applicants will discuss this non-obviousness below.

DE 196 54 769 A1 describes a method and a device for vehicle control or regulation, which includes a method for ascertaining a setpoint acceleration from a plurality of setpoint accelerations; setting a specified setpoint acceleration; vehicle sequential control; generating a high-quality speed signal; processing a setpoint speed; activating brake valves; the favorable formation of transitional states; vehicle spacing control or regulation; operating a vehicle speed controller; and setting a cornering speed. DE 196 54 769 A1 deals quite generally with the regulation of the longitudinal vehicle dynamics, and thus with the acceleration and braking in the travel direction, which brings about the necessity of coordinating various setpoint value sources in order to be able to control engine and brakes suitably (see, e.g., page 2, lines 8-9; and page 2, lines 22-24). Thus, in the subject matter of DE 196 54 769 A1, control signals for the brake are also provided in order to increase or decrease the braking pressure (page 4, line 42). According to page 5, lines 2-11 of DE 196 54 769 A1, brake torque regulation is addressed if the corrected setpoint torque is negative. With respect to a speed regulation with the aid of a vehicle speed controller, it is described in DE 196 54 769 A1 how setpoint speed changes can be formed in such a way as not to be unpleasantly perceivable by the driver (page 8, line 43 - page 10, line 27). In particular, it is described that, for the improvement of riding comfort, in the case of a difference between specified setpoint speed and actual speed, i.e., when the acceleration becomes necessary, to specify this acceleration according to the difference between setpoint and actual (page 9, lines

56 to 66 and page 9, lines 9 to 11). In this context, the term "acceleration" can also include negative values, that is, travel conditions which would commonly be called braking (page 3, lines 23 to 24). However, in contrast to present claim 12, **DE 196 54 769 A1 clearly does not describe that the vehicle brake is activated only when a specified setpoint speed has been exceeded by an actual speed of the vehicle by more than a specified speed difference greater than zero;** instead, in the subject matter of DE 196 54 769 A1, for the ascertainment of the required acceleration, the difference between the setpoint speed and the actual vehicle speed is evaluated directly, without (as in the subject matter of current Claim 12) a first specified speed difference between the setpoint speed and the actual speed being taken into consideration, beginning at which the vehicle brake is first permitted to be activated.

For at least the foregoing reasons, DE 196 54 769 A1 clearly does not render obvious the subject matter of current claim 12. In addition, independent claims 15 and 22 contain further features (in addition to the features of claim 12) which are clearly not taught or suggested by DE 196 54 769 A1, and therefore claims 15 and 22 are also not rendered obvious by DE 196 54 769 A1. Therefore, **the basis for the Examiner's restriction requirement is clearly incorrect**, i.e., the Examiner's assertion that "there is no special technical feature when considered as a whole defines a contribution over the prior art of record" is clearly false.

Withdrawal of the restriction requirement is respectfully requested.

Respectfully submitted,

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By: JONG LEE for Gerard Messina
Gerard A. Messina
Reg. No. 35,952
KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646